

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

**EUGENE BALL**

8 Sugar Hill Drive

Chesterville, Maine 04938

Plaintiff,

v.

**CENTRAL STATES TRUCKING CO.**

c/o Cogency Global Inc., registered agent

3958-D Brown Park Drive

Hilliard, Ohio 43026

and

**RICARDO ORTIZ-PEREZ**

2997 Cedar Hill Road

Cuyahoga Falls, Ohio 44223

and

**HARLEYSVILLE WORCESTER  
INSURANCE COMPANY**

355 Maple Avenue

Harleysville, PA 19438-2297

Defendants.

\* \* \* \* \*

Case No.:

Judge

**COMPLAINT WITH  
JURY DEMAND**

**Samuel G. Bolotin, Esq. (0014727)**

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*Counsel for Plaintiff*

Now comes Plaintiff, Eugene Ball, by and through undersigned counsel, and for his complaint states the following:

**OVERVIEW**

1. On March 15, 2017, Defendant Ricardo Ortiz-Perez, while operating a semi-tractor trailer under the authority of Central States Trucking Co., negligently operated his semi-tractor without reasonable control by negligently changing lanes on Interstate

Route 80 in Perrysburg Township, Wood County, Ohio and collided with a motor vehicle operated by Plaintiff Eugene Ball. In the collision, Plaintiff suffered serious physical injuries.

### **PARTIES**

#### **Plaintiff**

2. Plaintiff Eugene Ball is an adult individual and a citizen of the State of Maine who resides at 8 Sugar Hill Drive, Chesterville, Maine 04938.

#### **Defendants**

3. Upon information and belief, Defendant Central States Trucking Co. is a corporation incorporated in the State of Illinois with its headquarters and principal place of business in the State of Illinois.

4. Upon information and belief, Defendant Ricardo Ortiz-Perez is an adult individual who resides at 2997 Cedar Hill Road, Cuyahoga Falls, Ohio 44223. Upon information and belief, Ricardo Ortiz-Perez is a citizen of the State of Ohio.

5. Upon information and belief, Defendant Harleysville Worcester Insurance Company is a corporation incorporated in the State of Pennsylvania with its headquarters and principal place of business in the State of Pennsylvania.

### **STATEMENT OF JURISDICTION**

6. This case is brought under 28 U.S.C. § 1332(a)(1), based upon diversity of citizenship. Because Plaintiff is a citizen of Maine, Defendants are either citizens of and/or are incorporated in the States of Ohio, Illinois and Pennsylvania, and the amount in controversy (exclusive of interest and costs) exceeds \$75,000.00, diversity jurisdiction exists in this Honorable Court. Venue is appropriate in this Court since the collision occurred in Wood County, Ohio.

**FIRST CAUSE OF ACTION**

*Negligence of Ricardo Ortiz-Perez*

7. Plaintiff incorporates all facts and allegations above in this cause of action by reference.
8. Defendant Ricardo Ortiz-Perez owed a duty to Plaintiff to use due care and caution in the operation of his commercial motor vehicle, and was required to obey all local traffic ordinances, the statutes of the State of Ohio, the Federal Motor Carrier Safety Regulations and the Rules of Common Law.
9. Defendant Ricardo Ortiz-Perez failed in the above-mentioned duties and was therefore negligent.
10. The negligence of one or all of the Defendants was the direct and proximate cause of the injuries sustained by Plaintiff.
11. Plaintiff, as a result of the negligence and recklessness of one or all the Defendants, directly and proximately sustained bodily injuries, extreme physical pain and great mental anguish.

**SECOND CAUSE OF ACTION**

*Statutory Violations/Negligence per se of Ricardo Ortiz-Perez*

12. Plaintiff incorporates all facts and allegations above in this cause of action by reference.
13. Defendant Ricardo Ortiz-Perez violated several state and federal statutes and regulations, including but not limited to, 49 CFR §§350-399, and specifically including, but not limited to, the following:
  - a) 49 CFR §392.3 – Ill or Fatigued Driver;
  - b) 49 CFR §395.3 – Maximum Driving Time;
  - c) O.R.C. §4511.20 – Willful or Wanton Operation on Street or Highway;
  - d) O.R.C. §4511.79 – Driving with Impaired Alertness or Ability;

e) O.R.C. §4511.202 – Operating vehicle without reasonable control

14. Defendant Ricardo Ortiz-Perez's violations of state and federal statutes and regulations constitutes negligence per se.

15. Plaintiff is in a class of individuals contemplated by the State and Federal legislatures as the intended class to be protected by the following law and regulations, including, but not limited to, 49 CFR §§350-399.

16. The negligence per se of Defendant Ricardo Ortiz-Perez was the direct and proximate cause of the injuries sustained by Plaintiff.

17. Plaintiff, as a result of the negligence, recklessness, negligence per se and statutory violations of one or all of the Defendants or their agents, directly and proximately sustained serious and permanent injuries:

a) That in the care and treatment of said injuries, Plaintiff was required to submit to numerous and extensive x-rays, examinations, treatments and therapies including the taking of drugs and medications in an effort to combat the pain in which they suffered;

b) That Plaintiff has incurred substantial expenses to date in the care of said injuries;

c) That said injuries are permanent and partially disabling and Plaintiff will continue to incur medical and related expenses in the future in an amount which cannot now be determined nor in the exercise of due diligence be ascertained at this time;

d) That Plaintiff was required to absent himself from his usual and normal activities and has suffered and will continue to suffer the loss of enjoyment of life; and

e) That Plaintiff suffered from pain, shock, nervous reaction and inconvenience and will continue to suffer therefrom in the future with all of the foregoing to his substantial damage.

**THIRD CAUSE OF ACTION**

*Punitive Damages against Ricardo Ortiz-Perez*

18. Plaintiff incorporates all facts and allegations above in this cause of action by reference.

19. Defendant Ricardo Ortiz-Perez's actions demonstrate a conscious disregard for the rights and safety of Plaintiff and the rest of the public and were willful, wanton, reckless and/or grossly negligent. Plaintiff demands punitive damages against Defendant Ricardo Ortiz-Perez in an amount to be determined by the trier of fact, in order to punish Defendant Ricardo Ortiz-Perez and deter others from similar conduct.

**FOURTH CAUSE OF ACTION**

*Vicarious Liability of Central States Trucking Co.*

20. Plaintiff incorporates all facts and allegations above in this cause of action by reference.

21. Defendant Ricardo Ortiz-Perez was the driver, employee, statutory employee, agent, servant, or independent contractor for Defendant Central States Trucking Co. and/or Defendant Central States Trucking Co. negligently entrusted its commercial motor vehicle to Defendant, Ricardo Ortiz-Perez. Accordingly, Defendant Central States Trucking Co. is vicariously liable for the acts of Defendant Ricardo Ortiz-Perez for the causes of action above.

22. Defendant Central States Trucking Co. is liable for the negligent acts or omissions of Defendant Ricardo Ortiz-Perez for the causes of action above by the application of the theory of *respondeat superior*.

**FIFTH CAUSE OF ACTION**

*Strict Liability of Central States Trucking Co.*

23. Plaintiff incorporates all facts and allegations above in this cause of action by reference.

24. Regardless of the employment relationship, Defendant Central States Trucking Co. is the registered owner of USDOT number 185732 displayed on the tractor unit involved in this collision and is therefore responsible for the acts of the driver of that unit.

**SIXTH CAUSE OF ACTION**

*Negligence of Central States Trucking Co.*

25. Plaintiff incorporates all facts and allegations above in this cause of action by reference.

26. Defendant Central States Trucking Co. had a duty to act reasonably in investigating the work history, credentials and fitness of all of its commercial drivers, employees, statutory employees, agents, servants, and independent contractors, including Defendant Ricardo Ortiz-Perez, to be operators of commercial motor vehicles.

27. Defendant Central States Trucking Co. had a duty to act reasonably in hiring all of its commercial drivers, employees, statutory employees, agents, servants, and independent contractors, including Defendant Ricardo Ortiz-Perez, to be operators of commercial motor vehicles.

28. Defendant Central States Trucking Co. had a duty to properly train all of its commercial drivers, employees, statutory employees, agents, servants, and independent contractors, including Defendant Ricardo Ortiz-Perez, to be operators of commercial motor vehicles.

29. Defendant Central States Trucking Co. had a duty to promulgate and enforce rules and regulations to ensure that all off of its commercial drivers, employees, statutory employees, agents, servants, and independent contractors, including Ricardo Ortiz-Perez, and all of its commercial motor vehicles, were reasonably safe.

30. Defendant Central States Trucking Co. had a duty to act reasonably in supervising the conduct of all of its commercial drivers, employees, statutory employees, agents, servants, and independent contractors, including Defendant Ricardo Ortiz-Perez, as required by the Federal Motor Carrier Safety Regulations, including, but not limited to, parts 391, 392, 395, 396 and 397, and the laws of the State of Ohio including, but not limited to sections 1-11 of the Commercial Driver License Manual.

31. Defendant Central States Trucking Co. had a duty to act reasonably in retaining all of its commercial drivers, employees, statutory employees, agents, servants, and independent contractors, including Defendant Ricardo Ortiz-Perez, to be operators of commercial motor vehicles.

32. Defendant Central States Trucking Co. failed in the above-mentioned duties and was therefore negligent.

33. The negligence of Defendant Central States Trucking Co. was the direct and proximate cause of the injuries sustained by Plaintiff.

#### **SEVENTH CAUSE OF ACTION**

##### *Statutory Violations/Negligence per se of Central States Trucking Co.*

34. Plaintiff incorporates all facts and allegations above in this cause of action by reference.

35. Defendant Central States Trucking Co. violated and encouraged its commercial drivers, employees, statutory employees, agents, servants, and independent contractors, including Defendant Ricardo Ortiz-Perez, to violate state and federal statutes and regulations, including but not limited to 49 CFR §§350-399, and specifically including, but not limited to, the following:

- a) 49 CFR §392.3 – Ill or Fatigued Driver;
- b) 49 CFR §395.3 – Maximum Driving Time;
- c) O.R.C. §4511.20 – Willful or Wanton Operation on Street or Highway; and
- d) O.R.C. §4511.79 – Driving with Impaired Alertness or Ability; and
- e) O.R.C. §4511.202 – Operating Vehicle Without Reasonable Control.

36. Plaintiff in a class of individuals contemplated by the State and Federal legislatures as the intended class to be protected by the following law and regulations, including, but not limited to, 49 CFR §§350-399.

37. Defendant Central States Trucking Co.'s statutory violations directly and proximately caused Plaintiff's damages and injuries.

38. Defendant Central States Trucking Co. is negligent per se based on these statutory and regulatory violations.

**EIGHTH CAUSE OF ACTION**

*Punitive Damages against Central States Trucking Co.*

39. Plaintiff incorporates all facts and allegations above in this cause of action by reference.

40. Defendant Central States Trucking Co.'s actions demonstrate a conscious disregard for the rights and safety of Plaintiff and the rest of the public and were willful, wanton, reckless and/or grossly negligent. Plaintiff demands punitive damages against Defendant Central States Trucking Co. in an amount to be determined by the trier of fact, in order to punish Defendant Central States Trucking Co. and deter others from similar conduct.

**NINTH CAUSE OF ACTION**

*UM/UIM Claim against Defendant Harleysville Worcester Insurance Company*

41. Plaintiff incorporates all facts and allegations above in this cause of action by reference.

42. That Defendant Harleysville Worcester Insurance Company is a commercial motor vehicle liability insurance company which has paid, or is obligated to pay, expenses for Plaintiff Eugene Ball's medical treatment as a result of the accident and negligence of the Defendants. In addition, Defendant Harleysville Worcester Insurance Company is a Defendant which is obligated to provide Plaintiff with uninsured and/or underinsured motorist benefits and whose presence as a party is necessary in order that full and adequate relief can be granted, including the determination of such benefits as well as any subrogated interests which they may or will have. A copy of Defendant Harleysville Worcester Insurance Company's commercial motor vehicle liability policy is attached hereto as Exhibit 1.



**WHEREFORE** Plaintiff demands judgment against Defendants, jointly and severally, in an amount that is fair and just, consistent with the evidence and in excess of \$75,000.00 for all causes of action, together with costs, interest, prejudgment interest, punitive damages, attorney's fees, and any other relief the Court deems proper.

Respectfully submitted,

/s/ Samuel G. Bolotin, Esq.

**Samuel G. Bolotin (0014727)**

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*-Counsel for Plaintiff*

**JURY DEMAND**

Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted,

/s/ Samuel G. Bolotin, Esq.

**Samuel G. Bolotin (0014727)**

*-Counsel for Plaintiff*